

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

MICHELE MCKINNEY,

Plaintiff,

v.

APPLE FOOD SERVICE OF SUFFOLK, LLC,  
APPLE FOOD SERVICE OF NEW YORK  
LLC, and DOHERTY ENTERPRISES, LLC,

Defendants.

Case No. 2:19-cv-03877-PKC-RLM

**STIPULATION OF DISMISSAL**

WHEREAS, Plaintiff Michele McKinney ("Plaintiff") initiated this Action in the United States District Court for the Eastern District of New York against Defendants Apple Food Service of Suffolk, LLC, Apple Food Service of New York, LLC, and The Doherty Group, Inc. d/b/a Doherty Enterprises (incorrectly captioned as "Doherty Enterprises, LLC") (collectively "Defendants");

WHEREAS, Defendants requested a pre-motion conference concerning their intent to move the Court to dismiss Plaintiff's Complaint and compel arbitration, pursuant to an arbitration agreement that Plaintiff allegedly signed as part of her initial application for employment with Defendants, which Plaintiff had no recollection of ever signing (ECF Nos. 5, 7);

WHEREAS, the Court ordered that the Parties participate in pre-motion discovery concerning the existence of a valid arbitration agreement;

WHEREAS, the Parties participated in pre-motion discovery by *inter alia* exchanging written discovery and requests for the production of documents and conducting Plaintiff's deposition; and

WHEREAS, after considering the evidence exchanged during pre-motion discovery, evidence being presented to Plaintiff which had not before been disclosed, with the presentation of said evidence, Plaintiff withdraws her contestation regarding the validity of the arbitration agreement produced by Defendants.

The Parties now hereby stipulate and agree as follows:

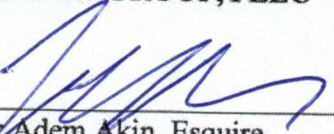
1. Dismissal. Pursuant to Fed. R. Civ. P. 41(a)(1)(ii) Plaintiff and Defendants agree that all claims asserted in this action shall be dismissed with prejudice, except that within sixty (60) days from the date this Stipulation is filed with the Court, Plaintiff may raise the claims asserted in this action, and any other claims she may have against Defendants, in binding arbitration before the American Arbitration Association utilizing the American Arbitration Association Employment Arbitration Rules, with the understanding that the date the Arbitration is filed shall be deemed the date in which the action was first initiated (for statute of limitation purposes).

2. Costs and Fees. The parties shall each bear their own costs and fees incurred during the proceedings in this Court, including costs and fees incurred during pre-motion discovery; that no cost shall be charged by any party as against any other party.

3. Confidentiality Order. The Stipulated Order Regarding Confidentiality of Discovery Material (ECF No. 10) Ordered by Chief Magistrate Judge Roanne L. Mann on November 12, 2019, shall survive the closing of this Case, and this Court shall retain jurisdiction to hear any claims for relief pursuant to that Order.

IT IS SO STIPULATED:

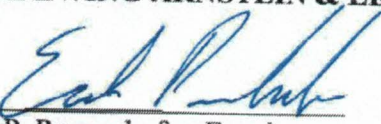
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Dated: December 2, 2019

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